



DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Proposed Collection; Comment Request

AGENCY: Division of Longshore and Harbor Workers' Compensation,
Office of Workers' Compensation Programs, DEPARTMENT OF LABOR

ACTION: Notice

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation Programs is soliciting comments concerning the proposed collection: Attorney Fee Approval Request (LS-4), Application for Special Fund Relief (LS-5), Commutation Application (LS-6), Request for Intervention (LS-7), Settlement Approval Request 8(i) (LS-8) and Stipulation Approval Request (LS-9). A copy of the proposed information collection request can be obtained by contacting the office listed below in the address section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION].

ADDRESSES: You may submit comments by mail, delivery service, or by hand to Ms. Anjanette Suggs, U.S. Department of Labor, 200 Constitution Ave., NW, Room S-3323, Washington, D.C. 20210; by fax, (202) 354-9660 or email to suggs.anjanette@dol.gov. Please use only one method of transmission for comments (mail/delivery, fax, or email). Please note that comments submitted after comment period will not be considered.

SUPPLEMENTARY INFORMATION

I. Background: The Department of Labor (DOL) is requesting an approval of a new information collection. This information collection is essential to the mission of DOL and the Office of Workers' Compensation Programs (OWCP) Longshore and Harbor Workers' Compensation Act (LHWCA or Act). The Act provides benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. In addition, several acts extend the LHWCA's coverage to certain other employee groups. LHWCA section 39(a) generally authorizes the Secretary of Labor to prescribe rules and regulations to implement the Act. See 33 U.S.C. 939(a).

Title 20 CFR 702.132 empowers the District Directors to award or deny attorney fees for services rendered on behalf of a claimant. In addition, 20 CFR 702.134 establishes certain guidelines for determining an attorney fee when the employer or carrier declines to pay compensation. The attorney representing a claimant must file an itemized fee petition for services performed at the Office of Workers'

Compensation (OWCP). Form (LS-4) has been designated for this purpose.

The implementing regulations at 20 CFR 702.321 require that pursuant to section 8(f) of the Act, 33 U.S.C. 908(f), if the work injury resulted in additional disability or impairment when combined with a pre-existing condition, the employer is liable for the first 104 weeks of compensation and the Special Fund is liable thereafter. Hearing loss claims are different in that the Special Fund pays for the pre-existing hearing loss and the employer for the added hearing loss. Request for relief must be submitted by the employer/carrier to OWCP and relief may be granted by the District Director or an Administrative Law Judge. To identify and timely respond to the requests from the employers and carriers, OWCP is requiring Form LS-5 Application for Special Fund Relief be submitted. The regulatory provisions are codified at 20 CFR 702.321. Because the Form LS-5 is of a statutory and regulatory nature, it should be formalized in a uniform manner and in a clear writing.

The implementing regulations at 20 CFR 702.142 require that pursuant to section 9(g) of the Act, 33 U.S.C. 909(g), compensation paid to aliens not residents, or about to become nonresidents, of the United States or Canada shall be in the same amount as provided for residents except that dependents in any foreign country shall be limited to surviving spouse and child or children, or if there be no surviving spouse or child or children, to surviving father or mother whom the employee has supported, either wholly or in part, for the period of 1 year prior to the date of injury. The Director, OWCP, may, at his or

her option, or upon the application of the employer or insurance carrier, shall commute all future installments of compensation to be paid to such aliens by paying or causing to be paid to them one-half of the commuted amount of such future installments of compensation as determined by the Director. [See LHWCA 33 U.S.C. 909(g)].

In response to its stakeholders and to facilitate the commutation of payments to injured workers, and the beneficiaries of deceased workers, OWCP is requiring Form LS-6 Commutation Request with the Public Burden Statement and Privacy Act Statement. The regulatory provisions are codified at CFR 702.142. Because the Form LS-6 is of a statutory and regulatory nature, it should be formalized in a uniform manner and in a clear writing.

Title 20 CFR 702.311 empowers the District Directors to resolve disputes with respect to claims in a manner designed to protect the rights of the parties and to resolve such disputes at the earliest practicable date. In some cases, the best resolution method is an informal conference. See also 33 U.S.C. 923(a) (same); 20 CFR 702.301 ("[B]y § 702.311 et seq., the district directors are empowered to amicably and promptly resolve such problems by informal procedures.") In addition, 20 CFR 702.312 - 702.316 establish certain guidelines for conducting informal conferences. Usually one of the parties requests an intervention or informal conference to assist with dispute resolution. Prior to scheduling an informal conference, the issues in dispute must be established and the District Director, or designee, will determine if the type of intervention requested is the most

effective means for resolving the disputed issues. The Form LS-7, Request for Intervention, will be used for that purpose.

Title 20, CFR 702.242 pursuant to 33 U.S.C. 908(i) allow the parties to settle claims for compensation and/or medical benefits. A Settlement Approval Request is a time sensitive request because once the parties submit a settlement, the District Director within thirty days must determine if the settlement is adequate, whether it was procured under duress and issue a Compensation Order in response. To facilitate prompt processing of settlement approval requests, OWCP is requiring the parties to use Form LS-8 as a cover page. The parties must also attach a signed settlement document that outlines the terms of the settlement.

Title 20 CFR 702.315(a) requires the District Directors to issue formal compensation orders, "Following an informal conference at which agreement is reached on all issues, the deputy commissioner shall (within 10 days after conclusion of the conference), embody the agreement in a memorandum or within 30 days issue a formal compensation order. The District Director may also issue an Order Approving Stipulations signed by all parties. Form LS-9 Stipulation Approval Request will be submitted together with the parties' stipulated agreement.

II. Review Focus: The Department of Labor is particularly interested in comments which:

- * evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* enhance the quality, utility and clarity of the information to be collected; and

* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions: The Department of Labor seeks the extension of approval of this information collection in order to carry out its responsibility to meet the statutory requirements to provide compensation or death benefits under the Act to workers covered by the Act.

Type of Review: New Collection (Request for New OMB control Number)

Agency: Office of Workers' Compensation Programs

Title: Request for Intervention, Longshore and Harbor Workers' Compensation Act

OMB Number: 1240-0NEW

Agency Number: LS-007

Affected Public: Business or other for-profit.

Form #	<u>Estimated Response time in Minutes</u>	<u>Estimated number of Responses</u>	<u>Burden in Hours</u>	<u>Annualized Burden Cost</u>
LS-4	15	486	122	\$ 2,303.36
LS-5	20	577	192	\$ 3,624.96
LS-6	10	40	7	\$ 132.16

LS-7	10	5,390	898	\$16,954.24
LS-8	20	5,400	1,800	\$33,984.00
LS-9	20	521	174	\$ 3,285.12
Total	95	12,414	3,193	\$60,283.84

Total Respondents: 12,414

Total Annual Responses: 12,414

Estimated Total Burden Hours: 3,193 hours

Estimated Time Per Response: 15 minutes

Frequency: On occasion

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

DATED: August 1, 2019

Anjanette C. Suggs

Agency Clearance Officer

Office of Workers' Compensation Programs

US Department of Labor

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